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DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

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Confederated Tribes of the Umatilla Indian Reservation Liquor Code - Amendment

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice publishes amendments to the Confederated Tribes of the Umatilla Indian Reservation Liquor Code. This codification amends the existing Confederated Tribes of the Umatilla Indian Reservation Liquor Code, enacted by the Board of Trustees of the Confederated Tribes of the Umatilla Indian Reservation, which was published in the Federal Register on February 22, 2012 (77 FR 10551).

DATES: Effective Date: This amended code shall become effective [Insert date of publication in the FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Gregory Norton, Division of Tribal Government Services Officer, Northwest Regional Office, Bureau of Indian Affairs, 911 NE 11th Avenue, Portland, OR 97232-4169, Telephone: (503) 231-6723, Fax: (503) 231-2201; or Laurel Iron Cloud, Chief, Division of Tribal Government Services, Office of Indian Services, Bureau of Indian Affairs, 1849 C Street NW, MS-4513-MIB, Washington, DC 20240, Telephone: (202) 513-7641.

SUPPLEMENTARY INFORMATION: Pursuant to the Act of August 15, 1953, Public Law 83–277, 67 Stat. 586, 18 U.S.C. 1161, as interpreted by the Supreme Court in *Rice v. Rehner*, 463 U.S.

713 (1983), the Secretary of the Interior shall certify and publish in the Federal Register notice of adopted liquor ordinances for the purpose of regulating liquor transactions in Indian country. The Board of Trustees of the Confederated Tribes of the Umatilla Indian Reservation duly adopted amendments to the Confederated Tribes of the Umatilla Indian Reservation Liquor Code on March 23, 2015. This Federal Register notice of amendment supersedes the Confederated Tribes of the Umatilla Indian Reservation Liquor Code, enacted by the Board of Trustees of the Confederated Tribes of the Umatilla Indian Reservation, which was published in the Federal Register on February 22, 2012 (77 FR 10551).

This notice is published in accordance with the authority delegated by the Secretary of the Interior to the Assistant Secretary - Indian Affairs. I certify that the Board of Trustees of the Confederated Tribes of the Umatilla Indian Reservation duly adopted amendments to the Confederated Tribes of the Umatilla Indian Reservation Liquor Code by Resolution No. 15-019 on March 23, 2015.

Dated: June 8, 2015

Kevin K. Washburn
Assistant Secretary - Indian Affairs.

The Confederated Tribes of the Umatilla Indian Reservation Liquor Code, as amended, shall read as follows:

CHAPTER 1. Liquor Code

SECTION 1.01. Title

This Code shall be the Liquor Code of the Confederated Tribes of the Umatilla Indian Reservation (Confederated Tribes) and shall be referenced as the Liquor Code.

SECTION 1.02. Findings And Purpose

- A. The introduction, possession, and sale of liquor on Indian reservations has historically been recognized as a matter of special concern to Indian tribes and to the United States. The control of liquor on the Umatilla Indian Reservation remains exclusively subject to the legislative enactments of the Confederated Tribes in its exercise of its governmental powers over the Reservation, and the United States.
- B. Federal law prohibits the introduction of liquor into Indian Country (18 U.S.C. 1154), and authorized tribes to decide when and to what extent liquor transactions, sales, possession and service shall be permitted on their reservation (18 U.S.C. 1161).
- C. The Board of Trustees, as the governing body of the Confederated Tribes pursuant to Article VI, §1 of the Constitution and Bylaws of the Confederated Tribes, have adopted Resolutions to permit the sale and service of liquor at the Wildhorse Resort & Casino and at Coyote Business Park as provided in this Code, but at no other locations.

- D. Pursuant to the authority in Article VI, §1(a) of the Confederated Tribes' Constitution, the Board of Trustees has the authority "to represent the [Confederated] Tribes and to negotiate with the Federal, State and local governments on projects and legislation that affect the [Confederated] Tribes".
- E. Pursuant to the authority in Article VI, §1(d) of the Confederated Tribes' Constitution, the Board of Trustees has the authority "to promulgate and enforce ordinances governing the conduct of all persons and activities within the boundaries of the Umatilla Indian Reservation, providing for the procedure of the Board of Trustees, and carrying out any powers herein conferred upon the Board of Trustees".
- F. The enactment of this Liquor Code to govern liquor sales and service on the Umatilla Indian Reservation will increase the ability of the Confederated Tribes to control Reservation liquor distribution, sales, service and possession, and at the same time will provide an important source of revenue for the continued operation of Tribal government and the delivery of governmental services, as well as provide an amenity to customers of enterprises of the Confederated Tribes.
- G. The Confederated Tribes have entered into a Memorandum of Understanding (MOU) with the Oregon Liquor Control Commission to deal with governmental issues associated with the licensing and regulation of liquor sales on the Umatilla Indian Reservation.

SECTION 1.03. Definitions

- A. Unless otherwise required by the context, the following words and phrases shall have the designated meanings.

1. “Alcohol”. That substance known as ethyl alcohol, hydrated oxide or ethyl, spirits or wine as defined herein, which is commonly produced by the fermentation or distillation of grain, starch, molasses, or sugar, or other substances including all dilutions and mixtures of those substances.
2. “Coyote Business Park”. Shall included Coyote Business Park North, South and East, but shall not include the Arrowhead Travel Plaza.
3. “Wildhorse Chief Executive Officer”. That person appointed by the Confederated Tribes to manage the Wildhorse Resort & Casino.
4. “Liquor” or “Liquor Products”. Includes the four varieties of liquor herein defined (alcohol, spirits, wine, and beer) and all fermented, spirituous, vinous, or malt liquor, or a combination thereof, and mixed liquor, a part of which is fermented, spirituous, vinous, or malt liquor or otherwise intoxicating in every liquid or solid or semi-solid or other substance patented or not containing alcohol, spirits, wine, or beer, and all drinks of potable liquids and all preparations or mixtures capable of human consumption, and any liquid, semi-solid, solid, or other substance, which contains more than one percent (1%) of alcohol by weight shall be conclusively deemed to be intoxicating.
5. “Wildhorse Resort & Casino”. Shall include the casino, hotels, golf course (including club house), cineplex, RV park and future facilities that become a part of the Wildhorse Resort & Casino located on the Umatilla Indian Reservation.
6. “Sale” and “Sell”. Includes exchange, barter, and traffic; and also the supplying or distribution by any means whatsoever, of liquor or any liquid known or described as

beer or by any name whatever commonly used to describe malt or brewed liquor or wine, by any person to any other person; and also includes the supply and distribution to any other person.

7. “Spirits”. Any beverage which contains alcohol obtained by distillation, including wines exceeding seventeen percent (17%) of alcohol by weight.
8. “Wine”. Any alcoholic beverage obtained by fermentation of fruits, grapes, berries, or any other agricultural product containing sugar, to which any saccharin substances may have been added before, during or after fermentation, and containing not more than seventeen percent (17%) of alcohol by weight, including sweet wines fortified with wine spirits, such as port, sherry, muscatel, and anglican, not exceeding seventeen percent (17%) of alcohol by weight.

SECTION 1.04. Jurisdiction

To the extent permitted by applicable law, the Confederated Tribes asserts jurisdiction to determine whether liquor sales and service are permitted within the boundaries of the Umatilla Indian Reservation. As provided in section 1.06 of this Code, liquor sales and service is only permitted at the Wildhorse Resort & Casino facilities and in the Coyote Business Park under this Code. Nothing in this Code is intended nor shall be construed to limit the jurisdiction of the Confederated Tribes to regulate liquor sales and service on all lands within the boundaries of the Umatilla Indian Reservation.

SECTION 1.05. Relation To Other Laws

All prior codes, ordinances, resolutions and motions of the Confederated Tribes regulating, authorizing, prohibiting, or in any way dealing with the sale or service of liquor are hereby repealed and are of no further force or effect to the extent they are inconsistent or conflict with the provisions of this Code. Specifically, amendments to the Criminal Code to make it consistent with this Liquor Code have been approved by Resolution 05-095 (October 3, 2005). No Tribal business licensing law or other Tribal law shall be applied in a manner inconsistent with the provisions of this Code.

SECTION 1.06. Authorized Sale And Service Of Liquor

A. Liquor may be offered for sale and may be served on the Umatilla Indian Reservation only at the following locations:

1. At the Wildhorse Resort & Casino.
2. At the Coyote Business Park by any Coyote Business Park lessee if liquor sales and service is permitted in the lease between the lessee and the Confederated Tribes.

SECTION 1.07. Prohibitions

A. General Prohibitions. The commercial introduction of liquor for sales and service, other than as permitted by this Code, is prohibited within the Umatilla Indian Reservation, and is hereby declared an offense under Tribal law. Federal liquor laws applicable to Indian Country shall remain applicable to any person, act, or transaction which is not authorized by this Code and violators of this Code shall be subject to federal prosecution as well as to legal action in accordance with the law of the Confederated Tribes.

- B. Age Restrictions. No person shall be authorized to serve liquor unless they are at least 21 years of age. No person may be served liquor unless they are 21 years of age.
- C. Off Premises Consumption of Liquor.
1. All liquor sales and service authorized by this Code at the Wildhorse Resort & Casino shall be fully consumed at the Wildhorse Resort & Casino as set forth in section 1.06 of this Code and no open containers of liquor, or unopened containers of liquor in bottles, cans, or otherwise may be permitted outside of the above-described premises, except as follows:
 - a) Patrons at Wildhorse restaurants may be permitted to remove a partially consumed bottle of wine from the restaurant if the wine is served in conjunction with the patron's meal, the patron is not a minor and the patron is not visibly intoxicated.
 - b) Organizers of meetings or conventions at Wildhorse may be permitted to offer or award liquor, including wine, to meeting and convention participants, provided that the participant is not a minor nor visibly intoxicated, and such liquor or wine may be removed from the Wildhorse premises by the participant so long as the liquor or wine is not opened.
 2. Liquor sales and service at Coyote Business Park shall be conducted in strict compliance with the lease between the Coyote Business Park lessee and the Confederated Tribes.

- D. No Credit Liquor Sales. The sales and service of liquor authorized by this Code shall be upon a cash basis only. For purposes of this Code, payment for liquor on a cash basis shall include payment by cash, credit card, or check.

SECTION 1.08. Conformity With State Law

- A. Authorized liquor sales and service on the Umatilla Indian Reservation shall comply with Oregon State liquor law standards to the extent required by 18 U.S.C. 1161.
- B. Wildhorse Resort & Casino. The Wildhorse Chief Executive Officer shall be responsible for ensuring that all OLCC license requirements are satisfied, that the license(s) is renewed on an annual basis, and that all reasonable and necessary actions are taken to sell and serve liquor to Wildhorse patrons in a manner consistent with this Code, applicable State law, and the Tribal-State Compact. The Wildhorse Chief Executive Officer shall also be authorized to purchase liquor from the State or other source for sale and service within the Wildhorse Resort & Casino. The Wildhorse Chief Executive Officer is further authorized to treat as a casino expense any license fees associated with the OLCC liquor license.
- C. Coyote Business Park. The Coyote Business Park lessee authorized to sell or serve liquor as provided in section 1.06(A)(2) of this Code, shall be responsible for insuring that all OLCC license requirements are satisfied, that the license(s) is renewed on an annual basis, and that all reasonable and necessary actions are taken to sell and serve liquor in a manner consistent with this Code and applicable Tribal and State law.

SECTION 1.09. Penalty

Any person or entity possessing, selling, serving, bartering, or manufacturing liquor products in violation of any part of this Code shall be subject to a civil fine of not more than \$500 for each violation involving possession, but up to \$5,000 for each violation involving selling, bartering, or manufacturing liquor products in violation of this Code, and violators may be subject to exclusion from the Umatilla Indian Reservation. In addition, persons or entities subject to the criminal jurisdiction of the Confederated Tribes who violate this Code shall be subject to criminal punishment as provided in the Criminal Code. All contraband liquor shall be confiscated by the Umatilla Tribal Police Department (UTPD). The Umatilla Tribal Court shall have exclusive jurisdiction to enforce this Code and the civil fines, criminal punishment and exclusion authorized by this section.

SECTION 1.10. Sovereign Immunity Preserved

Nothing in this Code is intended or shall be construed as a waiver of the sovereign immunity of the Confederated Tribes. No manager or employee of the Confederated Tribes or the Wildhorse Resort & Casino shall be authorized, nor shall they attempt, to waive the sovereign immunity of the Confederated Tribes pursuant to this Code.

SECTION 1.11. Severability

If any provision or provisions in this Code are held invalid by a court of competent jurisdiction, this Code shall continue in effect as if the invalid provision(s) were not a part hereof.

SECTION 1.12. Effective Date

This Code shall be effective following approval by the Board of Trustees and approval by the Secretary of the Interior or his/her designee and publication in the Federal Register as provided by federal law.

[FR Doc. 2015-14419 Filed: 6/11/2015 08:45 am; Publication Date: 6/12/2015]